

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIADENNIS LAMAR JAMES, JR.,
Plaintiff,

No. C 13-1092 SI (pr)

ORDER EXTENDING DEADLINES

v.

HAYWARD POLICE DEPARTMENT;
et al.,

Defendants.

Plaintiff has requested an extension of the deadline to file his opposition to defendants' motion for summary judgment. Upon due consideration, plaintiff's request is GRANTED. Docket # 43, # 44. No later than **October 27, 2015**, plaintiff must file and serve on defense counsel his opposition to the motion for summary judgment. *No further extensions of this deadline should be expected because, by the time it arrives, plaintiff will have had four months to prepare his opposition.* No later than **November 9, 2015**, defendants must file and serve their reply brief, if any.

Plaintiff has requested appointment of counsel to assist him in this action. A district court has the discretion under 28 U.S.C. §1915(e)(1) to designate counsel to represent an indigent civil litigant in exceptional circumstances. *See Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986). This requires an evaluation of both the ability of the plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues involved and the likelihood of success on the merits. *See id.* Neither of these factors is dispositive and both must be viewed together before deciding on a request for counsel under § 1915(e)(1). Plaintiff's hospitalization presents an unusual circumstance, but the attorney appointed to investigate his competency to proceed has reported that he is competent. *See* Docket # 38. Plaintiff had no problem articulating his claims

1 in this action (including municipal liability) at a time when he presumably had the same mental
2 illness he now has. He also has filed several prior actions in which he has ably represented
3 himself. There also appears to be a low likelihood of success on the merits. Exceptional
4 circumstances requiring the appointment of counsel are not present in this action. Plaintiff's
5 request for appointment of counsel therefore is DENIED. Docket # 44 at 1.

6 IT IS SO ORDERED.

7 Dated: September 8, 2015



SUSAN ILLSTON
United States District Judge